

C.F. 2

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                          |   |                           |
|--------------------------|---|---------------------------|
| -----                    | X |                           |
|                          | : |                           |
| UNITED STATES OF AMERICA | : | CONSENT PRELIMINARY ORDER |
|                          | : | OF FORFEITURE/            |
| - v. -                   | : | <u>MONEY JUDGMENT</u>     |
| DANIEL ABAYEV,           | : | 22 Cr. 655 (PAC)          |
| Defendant.               | : |                           |
| -----                    | X |                           |

WHEREAS, on or about December 5, 2022, DANIEL ABAYEV (the “Defendant”), and another, was charged in a two-count sealed Indictment, 22 Cr. 655 (PAC) (the “Indictment”), with conspiracy to commit computer intrusions, in violation of Title 18, United States Code, Section 371 (Count One); and conspiracy to commit computer intrusions in violation of Title 18, United States Code, Section 1030(b) (Count Two);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Two of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 1030(i) of any and all property, real and personal, constituting or derived from any proceeds obtained directly or indirectly, as a result of the offenses charged in Counts One and Two of the Indictment, and any and all personal property that was used or intended to be used to commit or to facilitate the commission of the offenses charged on Counts One and Two of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment;

WHEREAS, on or about October 30, 2023 the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit

to the United States, pursuant to Title 18, United States Code, Section 1030(i), a sum of money equal to \$161,858.26 in United States currency representing the proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$161,858.26 in United States currency representing the proceeds traceable to the commission of the offense charged in Count One of the Indictment which the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Indictment cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorneys, Kevin Mead and Steven J. Kochevar, of counsel, and the Defendant, and his counsel, Matthew Daniel Myers, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$161,858.26 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment which the Defendant personally obtained.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, DANIEL ABAYEV, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

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8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: /s/ Kevin Mead 9/12/2023  
Kevin Mead  
Steven J. Kochevar  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, NY 10007  
(212) 637- 2211/2262  
DATE

DANIEL ABAYEV

By: Daniel Abayev 10/30/23  
DANIEL ABAYEV  
DATE

By: Mr. Myers 10/30/23  
Matthew Daniel Myers  
Attorney for Defendant  
Myers & Galiardo LLP  
52 Duane Street  
New York, NY 10007  
DATE

SO ORDERED: Paul A. Crotty 10/30/2023  
HONORABLE PAUL A. CROTTY  
UNITED STATES DISTRICT JUDGE  
DATE